

1

2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK -----X

3

4 YEMISI AKINYEMI,

5

PLAINTIFF,  
07-CV-4048 (CM) (AJP)

6

7 -against-

8 MICHAEL CHERTOFF, SECRETARY,  
9 DEPARTMENT OF HOMELAND  
10 SECURITY,

11

DEFENDANTS.

12

13 -----X  
14 DATE: October 31, 2007

15

16 TIME: 12:30 p.m.

17

18

19 EXAMINATION BEFORE TRIAL of the  
20 Defendants, by a witness, SHARMILA ZAMAN, taken  
21 by the Plaintiff, pursuant to a Notice, held at  
22 the offices of United States Attorney's Office,  
23 Southern District of New York, 86 Chambers  
24 Street, New York, New York 10007, before Helen  
25 Shum, a Notary Public of the State of New York.

20

21

22

23

24

25

1

2 A P P E A R A N C E S:

3

4 K. C. OKOLI, ESQ.  
Attorney for the Plaintiff  
5 330 Seventh Avenue - 15th Floor  
New York, New York 10001

6

7 UNITED STATES ATTORNEY'S OFFICE  
8 SOUTHERN DISTRICT OF NEW YORK  
Attorneys for the Defendants  
9 86 Chambers Street - 3rd Floor  
New York, New York 10007  
10 BY: JOHN DALTON CLOPPER, ESQ.

11

12 ALSO PRESENT:  
Ralph Talarico, Esq.  
13 Melanie Acevedo, Esq.

14

\* \* \*

15

16

17

18

19

20

21

22

23

24

25

1

2 S H A R M I L A Z A M A N, called as a  
3 witness, having been first duly sworn by a  
4 Notary Public of the State of New York, was  
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. OKOLI:

8 Q. Please state your name for the  
9 record.

10 A. Sharmila Zaman.

11 Q. What is your business address?

12 A. Newark International Airport,  
13 Terminal B, Newark, New Jersey 07114.

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. My name is K.C. Okoli. I represent  
17 Yemisi Akinyemi, the Plaintiff in this case,  
18 and I'll be asking you a couple of questions.  
19 What I ask of you is your best recollection.  
20 If I ask you a question and you don't  
21 understand it, please let me know. I'll  
22 rephrase the question and ask it in such a way  
23 that you do understand.

24 A. Sure.

25 Q. I'll also ask that when I start

1 S. ZAMAN

2 Q. That's here in Manhattan?

3 A. Yes.

4 Q. Who's your current employer?

5 A. U.S. Customs and Border Protection.

6 Q. Since when did you become employed  
7 by the Customs and Border Protection?

8 A. January 5, 2004.

9 Q. I'll call it CBP for short. Is  
10 that okay?

11 A. (Indicating.)

12 Q. When you were first hired by CBP,  
13 what was your title?

14 A. CBPO.

15 Q. As part of your hiring, were you  
16 required to complete a probationary period?

17 A. Yes, I was.

18 Q. When did your probationary period  
19 begin?

20 A. January 5, 2004, the starting date.

21 Q. When did your probation end?

22 A. January 5, 2006, two years.

23 Q. What's your current job title?

24 A. CBPO.

25 Q. Who's your current supervisor?

1 S. ZAMAN

2 of the shops at Terminal B?

3 A. No.

4 Q. Have you ever seen any officers  
5 window-shop there?

6 A. No.

7 MR. CLOPPER: Objection.

8 Ambiguous, but go ahead.

9 Q. Have you ever had occasion to go to  
10 any location of the airport beyond TSA  
11 screening?

12 A. Have I ever what?

13 Q. The part of the airport where  
14 you're assigned for your duties, is that beyond  
15 the TSA screening area?

16 A. No. We have separate entrance. We  
17 walk through TSA, but that's not part of the  
18 public entrance. Walk through TSA, and you can  
19 go to your customs area. There is no public  
20 place over there.

21 Q. As part of your job, are you  
22 required to carry a firearm?

23 A. Yes, I am.

24 Q. Has there ever been an occasion  
25 where you left your firearm unattended at the

S. ZAMAN

1

2 airport?

3 A. Yes, there has been.

4 Q. How many times has that occurred?

5 A. Only once.

6 Q. When did that occur?

7 A. I can tell you the month, but I  
8 don't remember the date. It's April 2004  
9 right after I came back from law enforcement  
10 training center, one or two days after I came  
11 back from law enforcement training center.

12 Q. April 2004?

13 A. Yes.

14 Q. What make of weapon was that?

15 A. Pardon.

16 Q. What make of weapon was that?

17 A. Glock.

18 Q. Is that an automatic pistol or  
19 something else?

20 A. Yes. I have it with me now.

21 Q. It's an automatic weapon?

22 A. Semiautomatic.

23 MR. TALARICO: Can we go off the  
24 record a second.

25 (Whereupon, an off-the-record

1 S. ZAMAN

2 discussion was held.)

3 Q. How many rounds does the glock  
4 take?

5 A. Seventeen and one on the -- so all  
6 together 18, and then extra 17 and 17  
7 (indicating).

8 Q. Could you describe the place where  
9 you left this gun unattended in April 2004?

10 A. I could. This was training room,  
11 something like this, and right outside the  
12 training room on Terminal C, there is a  
13 restroom. It's within that FIS area, no public  
14 entrance, but at the same time, airline  
15 Continental reps can get in. Those who have  
16 hologram IDs, they can get in through there,  
17 and only customs officers but not general  
18 public.

19 So after the training was done, I  
20 went to the restroom when we were done for that  
21 day, and I left the restroom. I was driving  
22 home. I got the phone call that if I have my  
23 weapon. First I said yes because I was under  
24 the impression I had it. Then the person who  
25 called me, the trainer, he said check it to

1 S. ZAMAN

2 make sure. So I pulled over, checked. It  
3 wasn't with me. So the whole thing took place  
4 within half an hour.

5 Q. How far were you from the airport  
6 at the time that you received this call?

7 A. I was on the tunnel, Lincoln  
8 Tunnel. So it's a matter of 20 minutes, 15 to  
9 20 minutes.

10 Q. In terms of distance, how far would  
11 you say approximately; how many miles?

12 A. From Newark Airport to Lincoln  
13 Tunnel, it should be -- how many miles? Three  
14 to four miles, five.

15 MR. CLOPPER: Just answer to the  
16 best of your ability.

17 Q. To the best of your ability, your  
18 estimation. I'm not holding you to it.

19 A. I would say five to seven miles. I  
20 know the exact location. I don't know the  
21 miles.

22 Q. Now, you said this bathroom where  
23 you left it unattended, airlines officials  
24 could also access that location?

25 A. Continental people who have



1 S. ZAMAN

2 hologram IDs, only those people and customs  
3 officers.

4 Q. Who was it that you received this  
5 call from?

6 A. Trainer Bruce Wescot.

7 Q. Is that the first and last name?

8 A. Wescot would be the last name.

9 Q. Is it a CBP employee?

10 A. Yes. He was in charge of the  
11 training unit.

12 Q. Could you tell us what transpired  
13 during this conversation after you realized  
14 that you didn't have your weapon? What did you  
15 do?

16 A. You want me to explain?

17 Q. Yes.

18 A. Okay. I pulled over, and he said,  
19 "We have your weapon. You left it in the  
20 restroom." And first thing I asked at that  
21 point, "What do I do now? Do I call the cops  
22 because my weapon is not with me? What if  
23 somebody took it?" He explained right after I  
24 left, the airline female, when they saw the  
25 weapon there, she notified him -- she notified

1 S. ZAMAN

2 him, and he went there, retrieved the weapon.  
3 And the reason it took 15 to 20 minutes, from  
4 the serial number, he called another trainer  
5 who is in charge of firearms and figured out  
6 that this is mine. That's the point they  
7 called.

8 So the second question I asked,  
9 "Did you notify Ms. Fowlkes?" Because at that  
10 time, that's the only supervisor I knew. I  
11 came in only two days, and Ms. Fowlkes is the  
12 training supervisor. He said, "No. Don't  
13 worry about it. I took care of it." Then I  
14 asked, "What should I do? I don't feel  
15 comfortable. I should notify the cops. What  
16 if somebody did something with it?" He said,  
17 "It's in safe hands." I said, "Can I come  
18 back?" He said, "I've been cut," which means  
19 he's also done for the day. "It's in the  
20 locker. It's going to be with Officer Cararie,  
21 the other trainer from the firearms division.  
22 Tomorrow morning when you are 8:00 to 4:00 when  
23 you come, go and collect it from him." That  
24 was that day.

25 Q. So when you went back to work, you

1 S. ZAMAN

2 resumed 8:00 to 4:00? That would be 8:00 in  
3 the morning to 4:00 in the afternoon?

4 A. (Indicating.)

5 Q. Did you then retrieve your weapon  
6 from Officer Cararie?

7 A. Officer Cararie, who's the other  
8 trainer, and they explained the gun law and  
9 proper handling of weapon.

10 Q. When you say they explained the  
11 proper handling of weapon, what exactly did  
12 they explain to you?

13 A. I should never take out the weapon  
14 from the holster. I should take off the gun  
15 belt when I want to take it off. When I came  
16 back from FLETC, I used to take the weapon out.  
17 I thought I was instructed to totally take out  
18 the weapon. He said not to do that, and he  
19 went through explaining. So he said, "Don't  
20 take the weapon out." I was under the wrong  
21 impression.

22 Q. After you retrieved the weapon,  
23 what did you do?

24 A. He said, "Go back to the class."  
25 So I went back to the class.

1 S. ZAMAN

2 that's what he did.

3 Q. And then what did he do after you  
4 explained to him?

5 A. After six months of that -- within  
6 six months of that, back on June 6th last year,  
7 2006, I got 14-day suspension proposal. It's  
8 not 14-day proposal. I got 14-day suspension,  
9 which I have a right to fight through my union.  
10 So I'm still fighting.

11 Q. So you have not actually done the  
12 suspension? You're challenging it?

13 A. They say within ten days it has to  
14 be served. So my union stepped in. So when  
15 union fight, everything is on hold.

16 Can you give me one second, please.

17 Q. If you want to talk to Counsel  
18 outside --

19 MR. CLOPPER: I would prefer if you  
20 just answer to the best of your  
21 understanding.

22 A. It has different phases of  
23 fighting, like how union fights 14-day  
24 suspension. So it's still going through the  
25 phases. I haven't served as up to date yet.

1 S. ZAMAN

2 Q. That's what I wanted to find out.

3 A. Yes.

4 Q. Just to be clear, you said after  
5 you spoke with Ms. Fowlkes, more than a year  
6 elapsed before you were called in again by  
7 Chief Cardinale?

8 A. Yes.

9 Q. Between the time that you spoke  
10 with Ms. Fowlkes and when you spoke with Chief  
11 Cardinale, is it fair to say that no one at CBP  
12 ever questioned you concerning this gun issue?

13 A. Yes.

14 Q. On the day that you left your gun  
15 in the bathroom, did you consume any alcoholic  
16 beverage?

17 A. No. I do not take alcohol.

18 Q. From the time that you got hired by  
19 the CBP to this moment, have you ever heard of  
20 any CBP officer who was terminated solely  
21 because he or she was found in a gate area at  
22 the airport when she did not have permission to  
23 be there?

24 A. Yes.

25 Q. When did you first hear this?

1 S. ZAMAN

2 A. When I spoke to you (indicating).  
3 The details you are talking about?

4 Q. The facts.

5 A. That somebody got fired.

6 Q. Solely for --

7 A. I did not know the reason why this  
8 person got fired, but I knew somebody got  
9 fired.

10 Q. Who was it that you knew was fired?

11 A. Yemi.

12 Q. Did you know her at the time she  
13 was an employee of the CBP?

14 A. Yes, because we went to FLETC  
15 together.

16 Q. FLETC is the training academy in  
17 Georgia?

18 A. Training academy, yes.

19 Q. Again, my question is as you sit  
20 here today, do you know of anyone who was  
21 terminated, any CBP officer, who was terminated  
22 solely because that officer gained access to a  
23 gate area without authorization?

24 A. There is no yes, no answer to it.

25 I have to explain. If you want me to explain,

1

S. ZAMAN

2

Q. Do you know what restricted areas

3

are?

4

A. Yes, I do.

5

Q. Other than Ms. Akinyemi, have you

6

ever heard or do you know of any customs

7

officer who was terminated solely for gaining

8

access to a restricted area without permission?

9

A. No, I don't know.

10

MR. OKOLI: Thank you.

11

(Whereupon, an off-the-record

12

discussion was held.)

13

MR. CLOPPER: I have no questions.

14

(Whereupon, at 1:05 p.m., the

15

Examination of this Witness was

16

concluded.)

17

  
SHARMILA ZAMAN

18

19

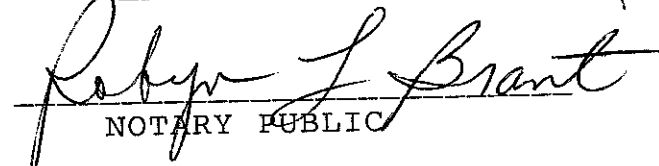
20 Subscribed and sworn to before me

21

this 18<sup>th</sup> day of December, 2007.

22

23

  
NOTARY PUBLIC

24

25

ROBYN L. BRANT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Aug. 3, 2011

# ERRATA SHEET

Defendant(s): MICHAEL CHERTOFF, SECRETARY  
DEPARTMENT OF HOMELAND SECURITY

**ROBYN L. BRANT**  
**NOTARY PUBLIC OF NEW JERSEY**  
 My Commission Expires Aug. 3, 2011